

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

| Order Instituting Rulemaking Into |) | |
|--|-----|--------------|
| Implementation of Federal Communications |) | R. 04-12-001 |
| Commission Report and Order 04-87, As It |) | |
| Affects The Universal Lifeline Telephone Service | ·) | |
| Program. |) | • |
| · <u></u> |) | |

REPLY COMMENTS OF SUREWEST TELEPHONE (U 1015 C) AND SUREWEST TELEVIDEO (U 6324 C)

ON

PROPOSED DECISION OF ALJ JONES ADOPTING STRATEGIES TO IMPROVE THE CALIFORNIA LIFELINE CERTIFICATION AND VERIFICATION PROCESSES, AND REINSTATING PORTIONS OF GENERAL ORDER 153

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I. INTRODUCTION.

Pursuant to Rule 14.3 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, SureWest Telephone (U 1015 C) and SureWest TeleVideo (U 6324 C) (collectively, "SureWest") hereby submit this reply in response to the opening comments on the Proposed Decision of ALJ Jones Adopting Strategies To Improve The California LifeLine Certification And Verification Processes, And Reinstating Portions Of General Order 153 ("Proposed Decision").

The interested parties agree with many of the perspectives presented in SureWest's opening comments. The opening comments reveal a strong consensus that the use of third-class mail for certification and verification documents has been and remains the most significant problem with the LifeLine eligibility confirmation system. Verizon and the Small LECs support SureWest's proposal to adopt pre-qualification as a long-term solution to the problems with the LifeLine program. The Joint Consumers and Cox share SureWest's concerns that staff not be given unchecked authority to change the LifeLine certification or verification protocols. Like SureWest, Cox and the Small LECs oppose the adoption of a requirement that carriers provide "reminder notices" to newly-enrolled LifeLine customers. Joint Consumers echo SureWest's belief that certification documents should be distributed through additional channels, and that a web-based enrollment procedure should be expeditiously pursued. Based on the opening comments, the Commission should incorporate each of these proposals into the Proposed Decision.

The opening comments also contain certain proposals that would complicate the certification and verification process further, or that are beyond the scope of this proceeding. Other proposals would improve the Proposed Decision, including Verizon's proposed modifications to the Staff Report,⁶ and the proposal by Cox and AT&T that the verification process be stayed until the mailing issues are resolved. These issues and others raised in opening comments are addressed in further detail below.

¹ See AT&T Opening Comments, at p. 2; Cox Opening Comments, at p. 1; Joint Consumers' Opening Comments, at p. 2; Small LECs Opening Comments, at pp. 3-4.

² Verizon Opening Comments, at pp. 3-4; Small LECs Opening Comments, at pp. 4-5.

³ Joint Consumers Opening Comments, at p. 8; Cox Opening Comments, at p. 6.

⁴ Cox Opening Comments, at p. 4.

⁵ Joint Consumers Opening Comments, at pp. 6-7.

⁶ Again, the "Staff Report" refers to the Report on Strategies to Improve the California Lifeline Certification and Verification Processes attached to the Proposed Decision.

II. THE OPENING COMMENTS UNDERSCORE THE CRITICAL IMPORTANCE OF REQUIRING FIRST-CLASS MAIL FOR CERTIFICATION DOCUMENTS.

There is universal recognition in the opening comments that the mailing issues are central to the problems that carriers and customers have experienced under the new LifeLine certification and verification regime. As Cox aptly notes, the "delay at the beginning of the enrollment/verification process has a domino effect and creates further delay throughout the certification/verification process." Indeed, many of the "fixes" reflected in the Proposed Decision would be unnecessary if the Commission simply addressed this one issue. Although the Proposed Decision suggests that the Solix contract would have to be amended to accommodate a change in the mailing protocols, AT&T's comments present significant evidence that standard bulk mail may be an inappropriate delivery mechanism under the current contract. The Proposed Decision should direct that Solix use first-class mail, and the Commission should pursue the most efficient method possible to bring about this result, whether it requires a contract amendment or not.

III. VERIZON'S PROPOSED CORRECTIONS TO THE STAFF REPORT SHOULD BE ADOPTED.

Verizon identifies two areas of the Staff Report that should be modified. First, the Staff Report should not suggest that all carriers are charging improper conversion charges. The Staff Report's assertion that "customers who applied for the Lifeline discount but were rejected were being charged a conversion / regrade charge by carriers when they are placed back onto a non-Lifeline residential service rate" is incorrect as to SureWest. SureWest is charging conversion charges only as permitted under General Order 153, and the Commission has made no findings to the contrary. Second, SureWest agrees with Verizon that carriers should not be given the responsibility for monitoring their customers to ensure that Solix is processing their records correctly. Carriers should not be tasked with overseeing processes that Solix is already being paid millions of dollars to do. To the extent that oversight of Solix is necessary, such oversight should be exercised by the Commission. SureWest supports Verizon's proposed revisions to the Staff Report.

IV. IF A REMINDER NOTICE REQUIREMENT IS ADOPTED, CARRIERS MUST BE GIVEN AT LEAST 180 DAYS TO MODIFY THEIR SYSTEMS TO ACCOMMODATE THIS REQUIREMENT.

As stated above, SureWest continues to object to the imposition of a requirement that carriers send "reminder notices" to recently-enrolled LifeLine customers. However, if such a requirement is adopted, it is essential that carriers be given sufficient time to integrate these "reminder notices" into their systems. As the Commission has recognized, system

⁷ Cox Opening Comments, at p. 1.

⁸ AT&T Opening Comments, at p. 2.

⁹ See Staff Report, at p. 13; Verizon Opening Comments, at pp. 8-9.

¹⁰ Verizon Opening Comments, at pp. 9-10.

modifications can often take considerable time to implement. Several parties raise this issue in opening comments, each offering a different suggestion regarding implementation time.¹¹ While carriers' systems and practices vary, SureWest believes that 180 days would be a reasonable timeframe to permit all carriers to comply with this requirement, should it be adopted. When the Commission imposed a similar "confirmation notice" requirement in D.04-05-057 (the 2004 "consumer protection" decision), it permitted carriers to implement that requirement (former Rule 3(d)) within 180 days of the decision's adoption.¹² The "reminder notice" is a similar requirement, and a similar compliance timeframe should be adopted for carriers to implement it.

V. THE VERIFICATION PROCESS SHOULD REMAIN STAYED UNTIL THE MAILING ISSUES ARE ADDRESSED.

SureWest agrees with AT&T and the Joint Consumers that the verification process should not be reinstated immediately upon passage of the Proposed Decision. SureWest supports AT&T's assessment that the verification mechanisms should remain stayed until the Commission addresses the mailing issues, which SureWest hopes will be within a few months, at the longest.

VI. THE COMMISSION SHOULD REJECT PROPOSALS THAT WOULD EXPOSE CUSTOMERS TO MORE THAN THREE MONTHS OF BACK-BILLING.

As SureWest emphasized in opening comments, and as the Staff Report recognizes, the customer impacts of back-billing under the current program have been significant. The longer the certification period becomes, the more significant the back-billing impacts will be. Accordingly, the Commission should resist proposals that would further expand the certification period beyond the 52-day period proposed in the Proposed Decision. The Greenlining Institute's ("Greenlining") proposal to expand the certification period to 75 days should be rejected, since it could potentially result in an additional month of back-billing for customers who are ultimately deemed ineligible. To the extent that AT&T's "automatic resubmission" proposal would result in an expansion of the certification period, it should also be rejected. As stated in the SureWest's opening comments, the Commission should focus on ensuring that customers receive certification documents in a timely manner, and that replacement documents can be readily obtained, rather than on continuing to increase customers' potential back-billing liabilities.

¹¹ AT&T Opening Comments, at p. 6; Verizon Opening Comments, at p. 11.

¹² See D.04-05-057, mimeo, at p. 156 (Ordering Paragraph 2).

¹³ See AT&T Opening Comments, at p. 3; Joint Consumers, at p. 2.

¹⁴ Greenlining Opening Comments, at p. 5.

¹⁵ See AT&T Opening Comments, Appendix B.

VII. GREENLINING'S OPENING COMMENTS INCLUDE PROPOSALS THAT ARE OUTSIDE THE SCOPE OF THIS PROCEEDING AND/OR INFEASIBLE UNDER EXISTING LAW.

Greenlining offers a series of broad proposals that go far beyond the Commission's inquiry in this proceeding.

Greenlining proposes in essence that the Commission abandon the current LifeLine program in favor of a system designed to promote low-cost wireless alternatives. Greenlining also proposes that the eligibility requirements under the LifeLine program be re-calibrated to account for geographical differences. This proceeding was opened for the narrow purpose of implementing the FCC's Lifeline / Link-up Order, and it was reopened on November 1, 2006 to reexamine the Commission's implementation of the FCC's directives. Greenlining's more far-reaching proposals should not be considered in this proceeding. Greenlining further proposes that the Commission return to a pure self-certification system for the LifeLine program. As has been well-documented throughout this proceeding, adopting this proposal would cause California to forego all federal LifeLine support. On that basis alone, the proposal is untenable.

VIII. AT&T'S PROPOSAL TO PERMIT SOLIX TO PROCESS LATE-RECEIVED FORMS IS IMPRACTICAL UNDER THE CURRENT PROGRAM CONFIGURATION.

Although it is well-intentioned, AT&T's proposal that Solix accept late-received certification documents should not be implemented under the current configuration of the LifeLine program. SureWest is concerned that this proposal would create confusion regarding the processing of certification documents, particularly given the possibility that a customer could be pursuing an appeal of a certification denial and a new certification at the same time that Solix might process a late-mailed original certification. For example, assume a customer sends a certification document to Solix on day 50 of the new certification period, and that Solix receives it on day 53, one day late. The customer might then appeal Solix's decision, and at the same time start the certification process anew. If Solix were able to process the late-received certification documents, it could create confusion with regard to the other processes by which the customer could ultimately be certified. SureWest fears that the processing of these documents could conflict in ways that would inject further confusion into the process.

SureWest hopes that certification documents can ultimately be obtained from a variety of sources, and that certifications can

¹⁶ Greenlining Opening Comments, at pp. 3-4.

¹⁷ Greenlining Opening Comments, at pp. 6-7.

¹⁸ Lifeline and Link-Up Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 03-109, FCC 04-87 (rel. April 29, 2004).

¹⁹ See November 1, 2006 Assigned Commissioner's Ruling Temporarily Suspending Portions of General Order 153 Relating to the Annual ULTS/California LifeLine Verification Process.

²⁰ Greenlining Opening Comments, at pp. 5-6.

²¹ AT&T Opening Comments, Appendix A.

be processed through a web-based system. These long-term solutions will help achieve the same goal that AT&T's proposal is designed to address.

IX. CONCLUSION.

SureWest urges the Commission to consider the above perspectives in revising the Proposed Decision, and SureWest looks forward to further participation in resolving the problems with the LifeLine program in the most constructive way possible.

Respectfully submitted,

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CERTIFICATE OF SERVICE BY MAIL

I, Noel Gieleghem, declare:

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is COOPER, WHITE & COOPER LLP, 201 California Street, 17th Floor, San Francisco, CA 94111.

On April 30, 2007, I served the following:

REPLY COMMENTS OF SUREWEST TELEPHONE (U 1015 C) AND SUREWEST TELEVIDEO (U 6324 C)

ON

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by placing a true and correct copy thereof with the firm's mailing room personnel for mailing in accordance with the firm's ordinary practices to the parties on the CPUC's service list for this proceeding. A true and correct copy was also e-mailed to parties who provided an e-mail address.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 30, 2007 at San Francisco, California.

Noel Gieleghem

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